

DAC
JFW

MORGAN L. FITCH, JR.
FRANCIS A. EVEN*
JULIUS TABIN*
JOHN F. FLANNERY
ROBERT B. JONES
JAMES J. SCHUMANN
JAMES J. HAMILL
TIMOTHY E. LEVSTIK
JOSEPH E. SHIPLEY
KENNETH H. SAMPLES
PHILIP T. PETTI
JOSEPH T. NABOR
STEVEN C. SCHROER
RICHARD A. KABA*
KARL R. FINK
MARK W. HETZLER
TIMOTHY P. MALONEY
JAMES P. KRUEGER
STEPHEN S. FAVAKEH
RICHARD E. WAWRZYNIAK
STEVEN G. PARMELEE
THOMAS F. LEBENS
KENDREW H. COLTON*
MICHAEL A. SANZO*
SCOTT J. MENGHINI
NORMAN N. KUNITZ*
RUDY KRATZ
RAMON R. HOCH*
JOHN D. BAUERSFELD*
GARY D. MANN
EDWARD E. CLAIR
JOHN E. LYHUS
R. MATTHEW PIPKE
SAMUEL P. BURKHOLDER
DAVID W. MAHER
JOHN J. GRESENS



FITCH, EVEN, TABIN & FLANNERY

ATTORNEYS AND COUNSELLORS AT LAW

Established in 1859

SUITE 401L - 1801 K STREET, NW
WASHINGTON, D.C. 20006-1301

TELEPHONE (202) 419-7000

FACSIMILE (202) 419-7007

ILLINOIS OFFICE

SUITE 1600 - 120 SOUTH LASALLE STREET, CHICAGO, ILLINOIS 60603-3406

TELEPHONE (312) 577-7000

CALIFORNIA OFFICES

SUITE 250 - 9276 SCRANTON ROAD, SAN DIEGO, CA 92121

TELEPHONE (858) 552-1311

SUITE 1740 - 21700 OXNARD ST., WOODLAND HILLS, CA 91367

TELEPHONE (818) 715-7025

COLORADO OFFICE

SUITE 213 - 1942 BROADWAY, BOULDER, COLORADO 80302

TELEPHONE (303) 402-6966

January 19, 2006

JON A. BIRMINGHAM
STEVEN M. FREELAND
BRIAN S. CLISE
MARTIN R. BADER
MARK A. BORSOS
TIMOTHY R. BAUMANN
JEFFREY A. CHELSTROM
NICHOLAS T. PETERS
KENNETH E. PLOCHINSKI
GRACE LAW O'BRIEN
CHRISTINE A. ABUEL
TARA M. REEDY
SARAH M. WALKINGTON
JOEL H. BOOTZIN
MICHAEL P. FURMANEK
JAMES M. WAKELY
NICOLE A. CHAUDHARI
AMANDA L. LOWERRE
CALISTA J. MITCHELL
MEGHAN R. ROONEY

PATENT AGENTS

ERIC J. WHITESSELL
LILIA I. SAFONOV
NADA J. ARDELEANU
JULIE A. HOPPER
KURT M. EATON

OF COUNSEL

GEORGE H. SPENCER, P.C.*

*ADMITTED TO D.C. BAR
D.C. PRACTICE OF ALL OTHERS
LIMITED TO FEDERAL COURTS
AND AGENCIES

USPTO FOIA Officer
United States Patent and Trademark Office
Madison Building East
600 Dulany Street
Alexandria, VA 22314
efoia@uspto.gov

Re: FREEDOM OF INFORMATION REQUEST REGARDING
Third party communications with the USPTO Relating to
U.S. Patent No. 4,855,290, the Petition for Patent Term Extension,
and the Certificate Extending Patent Term (photocopy
mis-mailed 5 December 2005, original mailed 13 Jan. 2006)
Our ref: 7398/71275

Dear Sir:

Pursuant to the Freedom of Information Act we request the U.S. Patent and Trademark Office to produce copies of all communications between the U.S. Patent and Trademark Office and entities (including natural persons) having no power of attorney to act in the Petition for Patent Term Extension, now granted, for U.S. Patent No. 4,855,290. The requested records include written and electronic – such as email – communications and any notes or other related Patent Office records. Upon present information these communications may have been directed to person(s) within the U.S. Patent and Trademark Office, Office of Patent Legal Administration.

Copies of emails in electronic format are requested for possible forensic analysis. However, documents that are image-accessible via the PTO Public Pair file history for U.S. Patent No. 4,855,290 are not part of this request.

This request is regrettably filed, but is necessitated because of the problems that have arisen because the power of attorney to the undersigned for this application and for the Petition for Patent Term Extension was not timely entered by the U.S. Patent and Trademark Office. From 2002 to 2005 the official Patent Office communications regarding the Petition for patent term extension were directed to a law firm that had no power of attorney of record to act for the petitioner. This is because the Patent Office failed to enter the proper address change and proper power of attorney to the undersigned, which was first filed herein in 2002, see attached facsimile confirmations.

Unfortunately these Patent Office oversights appear to have prompted one or more third parties, not of record in this matter, to become involved in the Petition process, including making request(s) to other third parties to file address changes despite apparently being informed to contact the undersigned.

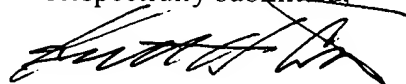
Specifically, upon present information and belief certain third parties, including at least one individual with a law firm, sent emails to the U.S. Patent and Trademark Office, Office of Patent Legal Administration relating to the Petition and/or the Certificate Extending Patent Term.

A fee waiver is requested, see the Federal Register, volume 65, number 170, pages 52920 – 52923 (August 31, 2000), and alternatively we petition pursuant to 37 CFR 1.181, 1.182 and/or 1.183 to have the FOIA fee rules suspended and the petition fee can be charged to our deposit account 06-1135 regarding our order number 7398/71275.

If the Patent Office written decision is against the fee waiver, then contingently, “document” reproduction/searching charges up to \$100 can be charged to our deposit account 06-1135 regarding our order number 7398/71275. Again, contingently, if the reproduction costs will exceed \$100, then please contact the undersigned counsel for Requestor.

Expedited consideration is respectfully solicited.

Respectfully submitted,



Kendrew H. Colton
Reg. No. 30,368

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3559
CONNECTION TEL 7038729411
SUBADDRESS
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Fitch, Even, Tabin & Flannery

Intellectual Property Law

1801 K Street, Suite 401L
Washington, DC 20006-1201
Telephone: 202.419.7000
Facsimile: 202.419.7007

Kendrew H. Colton
tel: (202) 419-7015
email: kcolton@fitcheven.com

The Honorable Commissioner of Patents
and Trademarks
Box Patent Ext.
Washington, D.C. 20231

April 1, 2004
Facsimile: 703-872-9411
Pages: 3

Attn: Karin Ferriter
Senior Legal Advisor, Office of Patents Legal Administration
Office of the Assistant Commissioner for Patent Examination Policy

Re: U.S. Patent No. 4,855,290
Our Ref.: 7398/71275

Dear Ms. Ferriter:

Thank you for taking my telephone call this morning. I am enclosing a copy of my May 15, 2002 submission to ensure that your working file includes the power of attorney. The power of attorney expressly includes appointment with respect to this patent term extension.

We thank you in advance for your cooperation and kind assistance.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY



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FITCH EVEN

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Fitch, Even, Tabin & Flannery
Intellectual Property Law

1801 K Street, Suite 401L
Washington, DC 20006-1201
Telephone: 202.419.7000
Facsimile: 202.419.7007

Kendrew H. Colton
tel: (202) 419-7015
email: kcolton@fitcheven.com

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Kendrew H. Colton
Registration No. 30,368
Tel: 202-419-7000 (ext. 7015)
Fax: 202-419-7007

A full service intellectual property law firm with offices in Washington D.C., Chicago, Boulder and San Diego
www.fitcheven.com